IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1944 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AJAY PRATAPBHAI DAVE PROPRIETOR - Applicant(s)
Versus
STATE OF GUJARAT & 5 - Respondent(s)

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Appearance :
MR PS CHAMPANERI for Applicant(s) : 1,
MR MR MENGDEY, APP for Respondent(s) : 1-6

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 24/10/2007

ORAL JUDGMENT

1. Rule. Learned APP Shri M.R. Mengdey waives service of rule on behalf of the respondents.

2. In the present petition, the petitioner has prayed for quashing of a criminal complaint bearing C.R. No.I-126/2007 dated 1.10.2007 filed before Wadi Police Station of Vadodara City. The complainant is a police officer. In his complaint, he has stated that while he was investigating into certain criminal offences of communal violence, during the course of investigation, upon interrogating the accused, it was revealed to him that the Siti Channel which is a News Channel being broadcast in the city of Vadodara has been publishing news which would excite communal tension. It was found on 21.9.2007 when Ganpathi Visarjan process was going on, the petitioner while covering the News on behalf of the T.V. Channel broadcast that in the violence which took place at the Panigate, a leader of Bajrang Dal had died. Apparently, no such incident had taken place. It was therefore, alleged that by publishing inaccurate News, the petitioner created tension between the different communities which led to communal violence.

3. In the present petition, the petitioner has stated inter-alia that the News channel in question never carried any such News item. While issuing notice on 10.10.2007, this Court had passed following order :

“Learned advocate Shri P.S.Champaneri for the petitioner submitted that at no point of time,

as alleged in the complaint dated 1st October, 2007, the news telecast by the petitioner's channel carried news item that one member of Bajrang Dal has died. He, therefore, submitted that such news being wrong or that such news item spreading rumours and thereby causing trouble in the city of Baroda cannot be believed. It is submitted that when the very foundation of the complaint is false which can be verified from the record, the court should interfere at this stage.

Considering the submissions made, issue notice returnable on 24th October, 2007. In the meantime, there shall be stay against further investigation in connection with complaint dated 1.10.2007."

4. In response to the notice issued by the Court, respondents have appeared with the investigation papers. Learned APP Shri Mengdey upon perusal of the material collected by the Investigating Officer as well as under the instructions of Mr. Sarang, PI, Wadi police station stated that upon viewing of the News item in question recorded on a CD, the Panch witnesses have come to the conclusion that no such News item was carried in the T.V. Channel. Apparently, there is only one statement of one Asif Suleman Sindhi recorded by the Investigating Agency on 27.9.2007 in which it is stated that such false News was published. Other than the oral submission of the said witness, there is apparently no evidence or material to establish that any such controversial News item was carried by the T.V. Channel.

5. Particularly, when the CD containing News allegedly broadcast by the petitioner in the T.V. Channel does not reveal that any News item of any violence or death of a leader of Bajrang Dal was ever broadcast, the entire basis of the complaint stands falsified. Though a formal report has not been filed by the police, presumably because of the stay granted by this Court, it appears that investigation has been completed. Since no further material is to be collected and when the Investigating Agency itself has come to the conclusion that there is no reliable evidence to suggest that alleged news item was ever broadcast, no useful purpose would be served in surviving the complaint.

6. In the result, complaint bearing C.R. No.I-126/2007 dated 1.10.2007 filed before Wadi Police Station of Vadodara City, is quashed. Rule made absolute.

(Akil Kureshi,J.)

(raghu)